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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA  
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9 Junies Alberry Jenkins, Jr., )

10 Plaintiff, )

11 vs. )

12 Clemenshaw, et al., )

13 Defendants. )  
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No. CIV 04-2771-PHX-SRB (DKD)

**ORDER**

15 The Defendant<sup>1</sup> has filed a Motion to Dismiss (Doc. #25). Plaintiff is advised of the  
16 following specific provisions of LRCiv 7.2 of the Rules of Practice of the United States  
17 District Court for the District of Arizona:

18 Subparagraph (e) provides:

19 Unless otherwise permitted by the Court, a motion including its supporting  
20 memorandum, and the response including its supporting memorandum, each  
21 shall not exceed fifteen (15) pages, exclusive of attachments and any required  
22 statement of facts. Unless otherwise permitted by the Court, a reply including  
23 its supporting memorandum shall not exceed ten (10) pages, exclusive of  
24 attachments.

25 Subparagraph (i) provides:

26 If a motion does not conform in all substantial respects with the requirements  
27 of this Rule, or if the opposing party does not serve and file the required  
28 answering memoranda, or if counsel for any party fails to appear at the time  
and place assigned for oral argument, such non-compliance may be deemed a  
consent to the denial or granting of the motion and the court may dispose of  
the motion summarily.

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<sup>1</sup>Patrick O'Brien.

1 If Defendant's Motion to Dismiss seeks dismissal of your Complaint for your failure  
2 to exhaust all available administrative remedies as required by 42 U.S.C. § 1997e(a), the  
3 Court may consider affidavits or other documentary evidence beyond your Complaint.  
4 Moreover, if Defendant produces admissible evidence demonstrating that you failed to  
5 exhaust your administrative remedies, your Complaint will be dismissed without prejudice  
6 unless you produce your own affidavit or other admissible evidence sufficient to show that  
7 you did exhaust all available administrative remedies.

8 **It is Plaintiff's obligation to timely respond to all motions. The failure of Plaintiff**  
9 **to respond to Defendant's Motion to Dismiss may in the discretion of the Court be**  
10 **deemed a consent to the granting of that Motion without further notice, and judgment**  
11 **may be entered dismissing the complaint and action with prejudice pursuant to LRCiv**  
12 **7.2(i). See *Brydges v. Lewis*, 18 F.3d 651 (9th Cir. 1994) (per curiam).**

13 **IT IS THEREFORE ORDERED** that Plaintiff shall have thirty (30) days from the  
14 date this Order is filed to file a response to Defendant's Motion to Dismiss.

15 **IT IS FURTHER ORDERED** that Defendant shall file any reply within fifteen (15)  
16 days from the date Plaintiff's response is filed.

17 **IT IS FURTHER ORDERED** that the Motion shall be deemed ready for decision  
18 without oral argument on the day following the date set for filing a reply unless otherwise  
19 ordered by the Court.

20 DATED this 21<sup>st</sup> day of December, 2005.

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David K. Duncan  
United States Magistrate Judge